

Patent No. 5,875,892. Finally, Claims 9-17 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over the three previously cited references and further in view of Kitamura, et al., U.S. Patent No. 5,295,297. Thus, the USPTO has combined up to four references to reject all claims of the application. The applicants respectfully traverse each of these rejections.

The applicants thank the Examiner for withdrawing the previous rejection and believe that the current bases for rejection are also not supported by the references.

Discussion

The applicants have discovered a new and unique packaging container produced from preselected materials, which container is specifically designed to hold electronic components, particularly integrated circuits. This unique container includes a tray into which the integrated circuits are secured, a specially designed tray cover, which is secured over the tray, and preferably a humidity indicating device which is incorporated into the tray cover. The invention may also include a moisture-proof barrier bag into which the packaging container is placed. Each of these components may be produced from different materials. For example, the tray is preferably produced from a conventional, water impermeable plastic material and the humidity indicating system is comprised of a group of components, the outside cover of which is

preferably covered with a water impermeable layer. In contrast, the tray cover is preferably composed of a composition different from that of the tray or the humidity indicating system and requires the following materials to be blended together: a plastic material chosen from a preselected group of plastic materials, an electrostatic dissipating product, and a desiccating material. The composition of this tray cover is distinctive from the composition of any packaging component that is disclosed in any of the references cited and is not obvious over the combination of the components cited in those references.

To understand the distinctions between the composition of the tray cover, as claimed, and the composition of the products disclosed in the cited prior art, it is necessary first to review the composition of the materials disclosed in the cited prior art.

Pakeriasamy

Pakeriasamy discloses a tray for shipping a particular type of electronic card, a PCNCIA card, which is manufactured from conventional plastic materials. The improvement in Pakeriasamy is that the PCNCIA cards can be directly placed within the trays of the container without first being placed within a jewel case. The composition of both the tray for the PCNCIA cards and its cover comprises only conventional plastic materials, such as polyvinyl chloride, polycarbonate or polyethylene. (Column 3, lines 51-55)

This conventional plastic material may be coated or treated with a material which renders the tray not subject to static. (Column 3, lines 56-58) However, Pakeriasamy does not disclose as a potential component in this composition any material which absorbs moisture that may be present when the PCNCIA cards are placed within the tray. To remove this moisture from inside this type of tray, desiccant bags are generally placed within a moisture impermeable bag that holds the trays.

Lancesseur

To overcome this critical lack of disclosure by Pakeriasamy, the USPTO cites Lancesseur. Lancesseur teaches a particular type of polymer based dehydrating material requiring the presence of four components: 50-80 percent of a thermoplastic or thermosetting polymer (the particular polymer used in the Examples is a polystyrene), 20-50 percent of a dehydration agent, 2-8 percent of an elastomer and 1-4 percent of a fiber. See column 1, lines 39-47 and column 2, lines 16-24. Each of these four materials is specifically required by Lancesseur.

In contrast, the material that it utilized and claimed in the applicants' invention requires only two of these components, i.e., a plastic material and a desiccating material. In particular, the use of a fiber material, which is required by Lancesseur, is not even mentioned in the Application! Thus, the composition of the

material claimed by the applicants is not disclosed by Lancesseur.

In addition, the product disclosed by Pakeriasamy is significantly different from the product claimed by the applicants. Pakeriasamy requires that both the carrier tray member **11a** and the carrier cover member **11b** be manufactured from the same material. In fact, the tray cover **11b** is nothing more than the tray member **11a** flipped upside-down. ("Next, a second tray member is turned over or flipped upside-down so as to function as a carrier cover member **11b** (Fig. 2).") Column 4, lines 36-38. Thus, Pakeriasamy teaches that the composition of the tray **11a** and the tray cover **11b** should be the same.

In contrast, the application does not even suggest that the tray and the tray cover can be manufactured from the same composition. In fact, it is implied, if not required, that the tray cover be manufactured from a composition which is different from the composition of the tray. This difference in composition is disclosed throughout the specification of the application. Accordingly, the composition of the product disclosed by Pakeriasamy is entirely different from that claimed by the applicants.

The applicants further assert that the USPTO has not satisfied the standards for proof of obviousness that are mandated by the Federal Circuit, for example in In re: Kotzab, 55 U.S.P.Q.2d 1313 (Fed. Cir. 2000) and In re: Dembicza, 50 U.S.P.Q.2d 1614 (Fed.

Cir. 1999). To combine multiple references to show obviousness, it is not only necessary that every element be disclosed in the prior art (which has not been proven with the claims of this application), but also that there must be some motivation, suggestion or teaching of the desirability to make the specific combination that is claimed by the applicants.

With very few exceptions all new inventions are the result of a combination of old elements. Thus, every element of an invention can usually be found, if enough prior art is reviewed. However, in the present situation, there are deficiencies in the combination of references cited by the USPTO. For example, Lancesseur does not disclose the specific composition that is claimed for the tray cover of the invention. Rather, Lancesseur mandates the use of fibers and an elastomer, neither of which is required by the broadest claims of the application. In fact, the possibility of use of fibers is not even mentioned in the application. In addition, Pakeriasamy mandates that the composition of the tray and the tray cover be the same, whereas the applicants have no such requirement in Claim 1 or any other claim. Accordingly, the elements disclosed by the references which are cited by the USPTO are not the same elements that are claimed by the applicants.

Further, there is no motivation to combine Pakeriasamy with Lancesseur. The goal of Pakeriasamy was to create a card carrier for a PCNCIA card. Pakeriasamy's invention was the use of two of

the exact same shaped tray members to hold PCNCIA cards. There is nothing in Pakeriasamy that suggests that the composition of these tray members should include any type of speciality plastic material containing a desiccating material, as is required by the claims of the application. Nor is there any suggestion that it would be beneficial to utilize the material of Lancesseur for this composition. Even if the composition of Lancesseur was utilized by Pakeriasamy, there is no suggestion that this composition should be used only for the cover. Finally, and most important, there is no suggestion in Pakeriasamy or Lancesseur to utilize a composition for the tray cover that is different from that disclosed in either Pakeriasamy or Lancesseur. Thus, the applicants assert that the claims, as filed, are clearly not taught or suggested by Pakeriasamy in view of Lancesseur.

It is particularly interesting to note that there have been a significant number of different plastic materials, which have incorporated moisture absorbing products, that were disclosed prior to the patenting of Pakeriasamy. (Note the references cited at pages 5-7 of the application.) Yet, even with this prior art present, Pakeriasamy never suggests that any of these materials should be used for his tray or tray cover. Thus, the applicants assert that it would not be obvious to combine Lancesseur with Pakeriasamy to disclose any of the claims of the application. The applicants respectfully assert that the invention, as claimed in

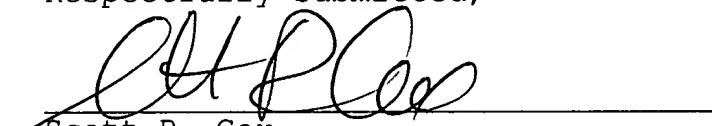
Claim 1, is not disclosed by nor rendered obvious over the cited prior art and the applicants request that the rejection of Claim 1 be withdrawn.

The applicants also respectfully request that the rejection of Claims 2 through 17 be withdrawn. Each of these rejections is based on the combination of Pakeriasamy and Lancesseur. As the applicants assert that this combination of references has been overcome by the arguments stated above, it is not necessary to further discuss the additional references cited to reject these claims.

CONCLUSION

The applicants assert that all claims are allowable and request that a Notice of Allowance be issued. If there are any questions, please contact applicants' counsel.

Respectfully submitted,



Scott R. Cox
Reg. No. 31,945
LYNCH, COX, GILMAN & MAHAN, P.S.C.
400 West Market Street, Suite 2200
Louisville, Kentucky 40202

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Date: Feb 5, 2003

